



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

January 16, 1981

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Russell H. Burdick, Jr.
Deputy County Attorney
Apache County Attorney's Office
P.O. Box 637
St. Johns, Arizona 85936

Re: I81-025 (R80-279)

Dear Mr. Burdick:

Pursuant to A.R.S. § 15-122.B, we decline to review your opinion dated December 11, 1980, to the Chinle School District discussing the district's potential liability for the off-campus conduct of its students.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General

BC:MAP:eb

STEPHEN G. UDALL
COUNTY ATTORNEY

RUSSELL H. BURDICK, JR.
CHIEF DEPUTY

OFFICE OF
APACHE COUNTY ATTORNEY

P. O. BOX 627
ST. JOHNS, ARIZONA 85936

TELEPHONE (602) 337-4364
EXTENSIONS 31 & 36

December 11, 1980

12-26-80 pc
POLLARD
R80-279

Mr. Russell W. Harrach
Superintendent
Chinle School District
P. O. Box 587
Chinle, AZ 86503

EDUCATION OPINION

ISSUE NO LATER THAN

2-23-81

Dear Mr. Harrach:

You have requested an opinion concerning the extent of the school district's duty to supervise its students. Your first question deals with the construction site located adjacent to the school grounds of the existing attendance center. You specifically asked whether a school district had supervisory responsibilities within the area of the construction site.

Your second question asked about the extent of supervision required over students who leave the school grounds. Both questions deal with the scope of the school districts duty to supervise students.

The following statutes discuss a school districts supervisory duty. A.R.S. § 15-201 states that:

"Every teacher shall: . . .

4. Hold pupils to strict account for disorderly conduct.
5. Exercise supervision over pupils on the playgrounds and during recess if assigned to such duty."

A.R.S. §15-442(A) states that:

"The Board of trustees shall: . . .

15. Hold pupils to strict account for disorderly conduct on school property and provide for adequate supervision over pupils in all instructional and non-instructional activity.

December 10, 1980
Mr. Russell W. Harrach
page 2

17. Discipline students for disorderly conduct on the way to and from school."

These statutes require school districts to provide supervision on the playground, during recess, and in all instructional and non-instructional activities. Those portions of the statute which deal with discipline for disorderly conduct very likely do not require a supervisory responsibility at the same time.

In dealing with question of supervising the area under construction, it is my opinion that if that area is accessible to the students while they are involved in instructional or non-instructional activities or while they are on the play ground or during recess, that area must be supervised by the school district. Another possibility would be to erect a barrier sufficient to prevent the students from entering that area.

As to supervision of students after they leave school grounds, it would appear that if the student leaves the school grounds as part of his participation in instructional or non-instructional activities, it would be necessary for the school district to provide supervision. As provided by the above quoted statutes, the school district does have a duty to discipline for disorderly conduct on the way to and from school. However, this cannot be read as implying that the school would be liable for injuries due to misconduct by the students.

Your question concerning liability of the school district can only be answered by looking at the specific facts in each situation in light of the current case law. Attached for your information, is a copy of 38 ALR 3d 830 an annotation dealing with Tort Liability of Public Schools and Institutions of Higher Learning for Injuries Resulting from Lack or Insufficiency of Supervision.

In summary, it is my opinion that if students have access to your construction area they should be supervised. It is also my opinion that, generally, when students leave the campus, unless they are on school sponsored activities, there is no duty to supervise. However, in order to determine if the school district will be liable for injuries to or caused by students it is necessary to look at each individual fact situation.

December 10, 1980
Mr. Russell W. Harrach
Page 3

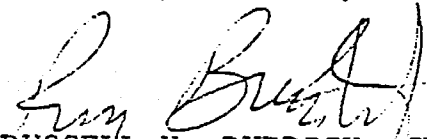
R80- 279

This opinion is being forwarded to the Attorney General for his review.

Sincerely,

STEPHEN G. UDALL
Apache County Attorney

BY:


RUSSELL H. BURDICK, JR.
Deputy County Attorney

RHB:mp

cc: ~~Attorney General~~